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Improving the practice of stop and search in Scotland

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On April 1st, 2013, all eight of Scotland's territorial police forces were merged to form one national police force, The Police Service of Scotland (referred to as 'Police Scotland'). Barely one year into its existence, Police Scotland came under increased academic, political and media scrutiny regarding its practice in stop and search (stop and frisk, HMICS 2015). Prior to this period little research or academic attention had been devoted to stop and search in Scotland (in marked contrast to the situation in England or the United States), and the practice had gone relatively unassessed for decades in the previous eight (legacy) forces. What changed this situation was the findings of a PhD study by Kath Murray (University of Edinburgh) which demonstrated that the police in the legacy forces and in Police Scotland were using stop and search at a per capita rate which outstripped that of the London Metropolitan Police or that of the New York Police Department by about a factor of four (Murray, 2014, 2015).

Part of the reason for this is that police in Scotland (unlike those in England) are allowed to search members of the public without statutory grounds if the member of the public agrees (gives 'consent'). Unlike in England, which has the Police and Criminal Evidence Act (1984), there is little legislation in Scotland which regulates the use of non-statutory stop and search (Lennon and Murray, 2016). Guidelines which do exist include that refusal of consent is not meant to be taken as grounds on which to base a statutory search. Officers are also not meant to coerce someone into giving consent, although they are not required to disclose to members of the public that refusal is permissible for non-statutory searches. These guidelines, alongside those which require that those being searched have the capacity to give consent, are in practice unlikely to be met (Lennon and Murray, 2016; Murray, 2015).

In Scotland, these non-statutory searches were being used disproportionately on young people (those under the age of 25) and children. At the time, the ratio of statutory to non-statutory searches was about 30/70, with non-statutory searches comprising the larger share. In some areas of Scotland the practice had become the routine method of engagement with certain populations. For example, more 16-year-olds were searched in Glasgow than actually exist in Glasgow in the resident population (Murray, 2014). Although the data collected at the time does not allow for analysis of the socio-economic status of the individuals who were stopped and searched, research since then (Blake Stevenson Ltd,

¹ The authors would like to acknowledge the contribution of Dr Agata Krause to the research reported here.

2016) and anecdotal evidence from our project would suggest that it is those in the more economically deprived areas who receive the most stop searches, especially in Glasgow.

The police in Scotland have traditionally viewed stop and search as a legitimate tactic to deter violence (especially knife crime) and drug possession, as well as to recover prohibited items or stolen property. These are the most common reasons given for searches according to police data (O'Neill et al., 2015). The U.K. does not have the same level of gun possession in the U.S. due to strict regulations and this has allowed U.K. police forces to maintain a largely unarmed service. However, other concealed weapons are a possibility and Glasgow in particular has a reputation for being particularly prone to violent crimes (for example, in 2013 it was rated the UK's most violent city, see BBC, 2013). In response to this, the Chief Constable of Police Scotland (previously the Chief Constable of Strathclyde Police which includes Glasgow), Steven House, established performance measurements to track the rate of 'positive' stop searches (Murray, 2015), which acted as a catalyst to increase the rate of stop and search across Police Scotland. Other reasons for the high stop and search rates in Scotland were the lack of regulation (discussed above) and the lack of scrutiny (until 2015 there were no published statistics on stop and search in Scotland, unlike the case in England).

In response to the weight of external pressure, Police Scotland developed a series of measures to reevaluate and reform stop and search, one of which was to pilot a revised approach to the practice. Police Scotland selected 'P' Division, Fife, as the pilot site and the pilot was launched in July 2014, with support being provided by the National Stop and Search Unit. There were three aims of the stop and search pilot in Fife. The first was to improve the data on which stop and search is based. This aim mainly involved the data analysts in Fife and the use of new data analysis software, and then tracking how that information was used to task officers. The second aim was to improve accountability. There were several initiatives here such as checking police officers' stop and search records, measuring public satisfaction, and reporting to scrutiny boards which monitored stop and search activity. The final aim of the pilot was to improve confidence in the use of stop and search. Included here were issuing letters to parents of children stopped; providing advice slips to anyone stopped; working with schools, colleges and universities; and enhanced training.

Evaluating the Stop and Search Pilot Program

An independent academic evaluation was commissioned to evaluate the pilot, which we were successfully awarded. The two main aims of our evaluation of the stop and search pilot in Fife Division were to (1) assess the process of introducing and implementing the new methods for stop and search in Fife and (2) to assess the extent to which the desired outcomes for the stop and search pilot have been achieved. It is important to note that this evaluation was of the Fife pilot only, and not on stop and search practice in Scotland in general.

We employed both qualitative and quantitative methods in our evaluation of the new pilot program. The evaluation team was given assistance in evaluating the stop and search database and data analysis reports by the in-house analysts in Fife. Stop and search records for the pilot period were compared to those of another area in Scotland, Forth Valley, as well as to those of the same period in Fife from the previous year. The qualitative research included interviews and observations with 42 police officers and police staff of varying ranks and across three different locations. Thirty-seven additional interviews were

conducted with various pilot stakeholders and members of the public. This included four senior police officers, five management officers, 12 PCs, three members of police staff and 13 members of the public (three local partners and ten people who were stopped and searched on a previous occasion). During data collection, 11 instances of stop and search involving 19 people in two different case study sites were observed.

Findings

Overall, the changes introduced as part of the pilot were an important step forward in reforming stop and search in Scotland. We found that the officers and staff involved in the management and implementation of the Fife Pilot invested a considerable degree of time, effort and resources into it. A wide variety of changes were introduced through the pilot in an effort to make Police Scotland more accountable and to command greater confidence from the public in relation to stop and search. These changes were based on extensive external consultation.

Our findings suggest that some elements of the Fife Pilot can be regarded as good practice. The proposed changes were predominantly implemented as planned and there appeared to be some positive outcomes. These include:

Systematic recording of all stop searches. Prior to the pilot, stop and search recording practice was inconsistent across Scotland and often inaccurate.

Compliance recording checks. Checks were made on stop and search entries by comparing the record with the officer's notebook entry to ensure accurate data entry and accurate use of legislation.

Engagement with external stakeholders. A wide variety of external groups, agencies and key individuals were consulted in the development of the Fife Pilot.

Advice slips. As part of the pilot, anyone stopped and searched in Fife was given a small leaflet with the date and officer's number and to explain why stop searches are conducted and how to provide feedback.

Aide memoires. To help improve compliance with the relevant legislation regarding stop and search all officers were issued with a small leaflet explaining the appropriate grounds for searches, as well as a mandatory statement to read in the case of consensual searches.

Enhanced staff training. The Fife Division developed new online training for the pilot methods, as well as content for staff briefings.

However, we found that it was unrealistic to expect the changes implemented during the course of the pilot to achieve their rather ambitious objectives, certainly not on their own and within a short period of time. It should also be acknowledged that the pilot was introduced at a challenging time for policing in Scotland and in a context of ongoing re-structuring and change. Despite the good practice which was evident in the pilot, there were many areas where improvement was needed or where methods had proved to be problematic. These include:

The rate of stop and search. During the first three months of the pilot the total number of stop searches conducted in Fife Division was 42.1% higher than the volume during the same quarterly period of the previous year. In addition, the rate of positive searches (where an item was found) had decreased (from 24% to 18.8%). Meanwhile over

the same period in the comparator area (Forth Valley) there had been a 19.7% decrease in the volume of stop searches and the 'positive rate' only reduced by 0.3%.

Dip sampling. This involves a police officer phoning people who have been stopped and searched to assess their level of satisfaction with the experience. We found a number of problems with this. For example, the percentage of people who provided an accurate phone number to the police after a stop search was very low. Of these, very few of the numbers were answered. Of those which were answered, few resulted in a completed questionnaire. Officers were phoning individuals during the day when they may have been at work and due to the sensitive nature of the topic people were reticent to discuss their stop and search experience. Thus the findings from this exercise cannot be regarded as representative. The questionnaire also did not allow for any free-text answers to provide a more detailed understanding of their responses or to follow up on equivocal answers.

Letters to parents. Letters were sent to the parents or guardians of children under the age of 16 who have been stopped and searched. Parents expressed concern about both the tone of the letters and the lack of detail provided in the letter about the search. Concerns were also raised by the Police Scotland Children and Young Persons Reference Group about repercussions from the letters for how parents see their children.

Enhanced training: We found a great deal of variation in terms of how PCs recall their experiences of the training which suggests that it did not have the level of impact on them which was intended. Much of it was in an online format or through briefings with a supervising officer. Neither method made a lasting impression on the officers.

Outcomes for officers. Police officers have many views on what is useful and valuable from stop and search. However, the extent to which that has been enhanced in some way or made more transparent for the public through the mechanisms of the pilot was not clear to them. They struggled to identify any clear outcomes which were as a result of the pilot.

Non-statutory searches. We found that members of the public who had been searched consensually had a more critical view of the police. They felt that they had been targeted at 'random', which was unjustified as they had not done anything wrong. A few people mentioned how being stopped and searched is embarrassing, even if the police officers are polite when doing it.

Impact

Since the publication of our final report, our 19 recommendations have been incorporated in to the official Police Scotland Stop and Search Improvement Plan². At the time of writing, almost all of these have been achieved or resolved, and work continues on the few that remain. Police Scotland now regularly publishes their stop and search data online³, which is far more detailed than was the case previously. Along with other partner agencies, members of our research team regularly attend consultation meetings with Police Scotland which aim to develop and support research into stop and search. Along with Murray (2015) and Scott (2015), we have called for an end to non-statutory searches in Scotland. Police Scotland and the Scottish Government have agreed to this and the practice is in the process of being phased out. In addition to which, a new Code of Practice for stop and search is due to be implemented in 2017, along with a revised and enhanced training

² This can be found at <http://www.scotland.police.uk/about-us/police-scotland/stop-and-search/stop-and-search-improvement-plan>

³ <http://www.scotland.police.uk/about-us/police-scotland/stop-and-search/stop-and-search-data-publication/>

programme for all officers. In alignment with our recommendations and those of Scott (2015) this training will largely be face-to-face rather than online to facilitate better retention and impact on practice. Finally, the Scottish Government has recently implemented new legislation (The Criminal Justice (Scotland) Act 2016) which tightens the law around stop and search in Scotland and stipulates the creation of the Code of Practice.

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